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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,745	05/10/2007	Arie Ben Harush	0-06-130	5022
7590	10/07/2008		EXAMINER	
Kevin D McCarthy Roach Brown McCarthy & Gruber 420 Main St 1620 Liberty Bldg Buffalo, NY 14202			LE, NANCY LOAN T	
			ART UNIT	PAPER NUMBER
			3621	
			MAIL DATE	DELIVERY MODE
			10/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/582,745	HARUSH, ARIE BEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	NANCY T. LE	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 June 2006 and 10 May 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____.                         |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :06/14/2006, 12/20/2006, 06/15/2007 and 09/26/2007.

## **DETAILED ACTION**

### ***Acknowledgements***

This Office Action is responsive to the *National Stage* application filed on *10 May 2007*.

All references to the capitalized versions of “Applicants” refer specifically to the Applicants of record. Any references to lower case versions of “applicant” or “applicants” refer to any or all patent “applicants”. Unless expressly noted otherwise, references to “Examiner” refers to the Examiner of record while reference to or use of the lower case version of “examiner” or “examiners” refers to examiner(s) generally.

This paper is given Paper No. 20080929 by the Examiner. This Paper No. is for reference purposes only.

### ***Information Disclosure Statement***

The information disclosure statements (IDS’s) submitted on *06/14/2006, 12/20/2006, 06/15/2007* and *09/26/2007* are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Status of Claims***

Claims 1-19 are currently pending and have been examined.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **US 2004/0064406 A1 (Yates et al.; hereafter “Yates”)** and further in view of **US 6,782,080 B2 (Leivo et al.; hereafter “Leivo”).**

As per **claims 1 and 16, Yates** discloses a method and system for identifying the initiator of a transaction carried out through computer network, which comprises:

a) sending by the initiator to the provider, through said computer network, an order, wherein said initiator is identified and the desired transaction and the particulars of a second means of communication are specified through a communication network, said means belonging to, or being controlled by the initiator (see **Yates** at least [0015], [0017], [0019] – [0021], [0070], fig. 2);

**Yates** does not expressly disclose such a method and system for identifying the initiator of a transaction carried out through computer network, further comprises:

b) specifying a period of time within which a confirmation should be sent by said initiator and received by said provider;

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- c) if the confirmation is not received within said period of time, disregarding the order;
- d) transmitting said confirmation and said order, if not previously sent, to an Authentication Center (AC);
- e) carrying out by said AC an authentication procedure;
- f) communicating to said provider the results of said authentication procedure; and
- g) if said results are positive, carrying out the transaction.

**Leivo**, however, teaches an arrangement for authenticating user and authorizing use of secured system, further comprising:

- b) specifying a period of time within which a confirmation should be sent by said initiator and received by said provider;
- c) if the confirmation is not received within said period of time, disregarding the order;
- d) transmitting said confirmation and said order, if not previously sent, to an Authentication Center (AC);
- e) carrying out by said AC an authentication procedure;
- f) communicating to said provider the results of said authentication procedure; and
- g) if said results are positive, carrying out the transaction;

(see **Leivo** at least **Abstract, C. 3 L. 1 – C. 5 L. 11, C. 9 L. 7 – C. 10 L. 11**) to prevent unintentional use of a service, unintentional transaction ordering, etc. as well as to verify

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the identity of the initiator requesting the service use, the transaction ordering, and so on.

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the invention was made to add the following features:

b) specifying a period of time within which a confirmation should be sent by said initiator and received by said provider;

c) if the confirmation is not received within said period of time, disregarding the order;

d) transmitting said confirmation and said order, if not previously sent, to an Authentication Center (AC);

e) carrying out by said AC an authentication procedure;

f) communicating to said provider the results of said authentication procedure; and

g) if said results are positive, carrying out the transaction;

taught in the Leivo reference to the method and system for identifying an initiator of a transaction carried out through a computer network disclosed in the Yates reference to prevent unintentional use of a service, unintentional transaction ordering, etc. as well as to verify the identity of the initiator requesting the service use, the transaction ordering, and so on.

As per **claims 2-15 and 17-19, Yates v. Leivo** teach an arrangement for authenticating user and authorizing use of secured system, further comprising:

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wherein the transaction is a purchase and the order specifies the requested goods, the price agreed for them, the means of paying said price (**Yates**: at least [0015], [0023], [0025]);

wherein the second means of communication is a telephone, wherein the telephone is a cellular phone (**Yates**: at least [0015], [0023], [0025]);

wherein the computer network is the Internet (**Yates**: at least [0062]);

wherein the period of time within which a confirmation should be sent by the initiator and received by the provider is not longer than two minutes (the Office considers "*the period of time ... is not longer than two minutes*" to be a **design choice**, thus, carries little or no patentable weight – see **Leivo** at least **Abstract, C. 3 L. 1 – C. 5 L. 11, C. 9 L. 7 – C. 10 L. 11**);

wherein the data checked in the authentication procedure comprise checking that the second communication means belongs to the person who has identified himself as the initiator (**Yates**: at least [0028]);

wherein the data checked in the authentication procedure comprise checking that the person who has identified himself as the initiator is the owner of the declared means of payment, and that there are no particular conditions relevant to the purchase of the requested goods by the declared purchaser, which may limit or prevent it (**Yates**: at least [0010], [0027]);

requiring of the initiator to provide additional information that should be known to the declared purchaser only (i.e., entering PIN – see **Yates**: at least [0009], [0031] and [0070]; **Leivo**: at least **C. 3 L. 43-46**);

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wherein the purchase is a one-time transaction, carried out by micropayment (see **Leivo** at least C. 3 L. 47-51, C. 7 L. 26-53); wherein the means of paying the price is the account of the second means of communication (see **Leivo** at least C. 7 L. 54 – C. 8 L. 31; **Yates** at least [0015]); wherein the means of payment is a credit card or a bank account (**Yates** at least [0015]);

wherein the transaction is an information or data source, the order specifies a request for information/data and for manipulating them, and carrying out the transaction means granting the initiator an access to said information/data source according to security, or authority, level(s) that is/are pre-assigned to him by the operator of said information/data source (see **Leivo** at least C. 1. L. 43 – C. 2 L. 19, C. 3 L. 11 – C. 5 L. 11, C. 9 L. 7 – C. 10 L. 11);

Please note that the USPTO interprets claim limitations that contain “**if, may, might, can, when and could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

### ***Conclusion***

Examiner has cited particular columns and line numbers and/or paragraph and/or page numbers in the prior arts of record as applied to the claims above in the body of

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this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to fully consider the references in its **entirety** as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to NANCY LOAN T. LE whose telephone number is **(571) 272-7066**. The examiner can normally be reached on Monday - Friday, 9am - 6:00pm Eastern Standard Time.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, ANDREW J. FISCHER can be reached on **(571) 272-6779**.

***For official/regular communication***, the fax number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

***For informal/draft communication***, the fax number is **(571) 273-7066**  
**(Rightfax)**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197 (toll-free)**.

NANCY T. LE  
Examiner, Art Unit 3621

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621